

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

* * * * *	CRIMINAL ACTION
UNITED STATES OF AMERICA	* 11-186-S
	*
VS.	* DECEMBER 16, 2013
	*
JOSEPH CARAMADRE, et al	* PROVIDENCE, RI
* * * * *	*

HEARD BEFORE THE HONORABLE WILLIAM E. SMITH  
CHIEF JUDGE  
(Sentencing)

**APPEARANCES:**

FOR THE GOVERNMENT:	LEE VILKER, AUSA and JOHN P. McADAMS, AUSA U.S. Attorney's Office 50 Kennedy Plaza Providence, RI 02903
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FOR THE DEFENDANT Joseph Caramadre:	WILLIAM J. MURPHY, ESQ. Murphy & Fay, LLP 127 Dorrance St. 2nd Floor Providence, RI 02903
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RANDY OLEN, ESQ.  
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Court Reporter:	Anne M. Clayton, RPR One Exchange Terrace Providence, RI 02903
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1 16 DECEMBER 2013 -- 9:30 A.M.

2 THE COURT: Good morning. This is the matter of  
3 the United States versus Joseph Caramadre. We're here  
4 for sentencing this morning.

5 Let's begin by having counsel identify  
6 themselves for the record, please.

7 MR. VILKER: Good morning, your Honor. Lee  
8 Vilker and John McAdams.

9 MR. MURPHY: Good morning, your Honor. William  
10 J. Murphy on behalf of Mr. Caramadre.

11 MR. OLEN: Good morning, your Honor. Randy Olen  
12 on behalf of Mr. Caramadre.

13 THE COURT: All right. Thank you.

14 We'll begin as usual with the Presentence  
15 Investigation Report which has been prepared by the  
16 Office of Probation in this matter.

17 And Mr. Murphy and Mr. Olen, if you can just  
18 confirm that you've had the opportunity to review the  
19 presentence report with your client and you've been  
20 able to answer all of his questions.

21 MR. MURPHY: Judge, we've had several  
22 opportunities to go over the presentence report with  
23 Mr. Caramadre, and we have filed an objection to it.

24 THE COURT: Right. We will get to the objection  
25 in a moment.

1           As a preliminary matter before we get to your  
2           objection, this is an unusual case for a number of  
3           reasons. One of them is that the restitution  
4           computation is so complicated. We have a Report and  
5           Recommendation from Magistrate Judge Sullivan, as well  
6           as a supplemental Report and Recommendation, and you  
7           filed an objection to the restitution calculation.

8           It occurred to me as I was reviewing all the  
9           materials in preparation for today that it might make  
10          sense to defer the restitution order to a later time in  
11          order to fully consider your objections, and I believe  
12          the statute allows the restitution order to be issued  
13          within 90 days of the imposition of sentence. Is that  
14          correct? I believe that's correct.

15          MR. MURPHY: Judge, that is correct. We would  
16          have no objection to delaying that portion until  
17          sometime after the sentencing today.

18          THE COURT: And I don't think the Government has  
19          actually responded to their objection.

20          MR. VILKER: No, your Honor. We're relying on  
21          the Magistrate Judge's opinion on this.

22          THE COURT: All right. I just wanted to make  
23          sure that you had an opportunity at least to respond to  
24          it.

25          All right. Then, I think we'll do that. We'll

1 defer the restitution portion of the order until a  
2 later time and then I'll issue a written order  
3 responding to the Defendant's objections, but I will  
4 note just as part of this proceeding that we have a  
5 very extensive and thorough Report and Recommendation  
6 from the Judge, Judge Sullivan.

7 So let's move to your objections to the  
8 presentence report and deal with those.

9 MR. MURPHY: Thank you, Judge.

10 Judge, on behalf of Mr. Caramadre, the defense  
11 has submitted some objections. Judge, we will not take  
12 a long period of time to go over them as they have been  
13 developed in our objection and also we've received a  
14 response from the Government and from Probation.

15 Basically, Judge, the objections to the  
16 presentence report are contained in a letter that  
17 Mr. Olen had submitted to the Court; and in essence,  
18 Judge, namely, the base offense level for the two  
19 counts to which Mr. Caramadre pled last November to  
20 Count IX and Count XXXIII, the base offense level of a  
21 7, which carries with it a criminal history category 1,  
22 which Mr. Caramadre does have, having no prior  
23 offenses, a period of imprisonment or a sentence of  
24 zero to six months.

25 When the specific offense characteristics along

1 with the adjustments are made, his criminal history  
2 category, obviously, stays at 1 and the total offense  
3 level goes from a 7 to a 51.

4 Judge, the objections that were put in by the  
5 Defendant are simply that we object to the points that  
6 Mr. Caramadre received for obstruction of justice. I  
7 know that Mr. Vilker on behalf of the Government had  
8 submitted an answer to that where he's looking at two  
9 reasons why there was obstruction of justice. We  
10 disagree and say that there should be no obstruction of  
11 justice.

12 The amount of loss, which is the big one, the  
13 specific offense characteristic under sentencing  
14 guidelines Section 2B1.1(b)(10)(L) because the amount  
15 of loss up to this point that has been focused on  
16 Mr. Caramadre is greater than \$20 million and less than  
17 \$50 million that specific offense characteristic adds  
18 22 points to Mr. Caramadre's base offense level. We  
19 object to that. We will take that up at a later date.

20 Also, your Honor, is the four-level increase.  
21 We say that the statement of facts to which was  
22 combined with the plea agreement that there are 22  
23 victims and two insurance companies, not the over 50  
24 victims. The Government and Probation has responded to  
25 that.

1           Second is the misrepresentation. We are arguing  
2           that he did not say that he was a Catholic charity,  
3           rather that there was an advertisement in the Rhode  
4           Island Catholic. He did come out, he did give money to  
5           the measuring lives, to their families, so we objected  
6           to paragraph 18; and we've also requested, your Honor,  
7           both to the objections to the presentence report and  
8           our motion for a variance is based on Mr. Caramadre's  
9           combination of health conditions that he should receive  
10          a variance to the sentence.

11          So those were our objections.

12          THE COURT: We'll take up the variance argument  
13          in connection with your argument with respect to the  
14          appropriate sentence.

15          You have a couple of other objections in the  
16          letter. I want to make sure that either you preserve  
17          these or you're waiving them.

18          MR. MURPHY: We are not waiving them, your  
19          Honor.

20          THE COURT: Paragraph 20 and paragraph 21.

21          MR. MURPHY: Yes, your Honor. As to 21, we  
22          object to the two-level increase, Mr. Caramadre  
23          deriving over a million dollars from one or more  
24          financial institutions because we feel that  
25          Mr. Caramadre, it has not been established that he has

1 personally received all of that money.

2 And Judge, the other objection would be in part  
3 is simply from a base offense level 7 to a total  
4 offense level of 51, we feel that every conceivable  
5 offense characteristic, some of them were almost added  
6 twice to Mr. Caramadre. Again, for sentencing  
7 purposes, we realize that there is a binding plea  
8 agreement and we'll be arguing off of that. I don't  
9 want to say it's moot, your Honor, but those are our  
10 large objections.

11 THE COURT: Okay. Thank you.

12 MR. MURPHY: Thank you.

13 THE COURT: Mr. Vilker?

14 MR. VILKER: Your Honor, first I just wanted to  
15 clarify that the guideline level as determined by the  
16 Probation Department is a level 57 in this case, not 51  
17 as I believe Mr. Murphy inadvertently indicated.

18 We believe all of the enhancements that the  
19 Probation Department found were properly included. The  
20 big enhancement is 22 levels for the amount of loss,  
21 that's between 20 million and 50 million. The amount  
22 of loss that was determined by Judge Sullivan, and I  
23 understand your Honor is pushing the restitution aspect  
24 of this case for a later decision, but that amount of  
25 loss is 46 million, which is far above the 20 million

1       that qualifies for the 22-level adjustment. Although I  
2       don't think the Court needs to necessarily make an  
3       exact finding of the amount of loss, I think there  
4       needs to be at least a finding of a certain amount of  
5       loss to put him into what I believe ultimately will be  
6       a guideline range of life imprisonment. Our view is  
7       that it's far in excess of the amount necessary to have  
8       a 22-level increase.

9               Moving on to the other objections, in terms of  
10       the number of victims, it's very clear that there's  
11       more than 50 victims. There's 26 individuals  
12       identified in the indictment, 18 insurance companies  
13       and 33 bond companies, which brings the number to 77 so  
14       that results in an increase of four levels. It's very  
15       clear that the Defendant was misrepresenting himself,  
16       acting on behalf of a charitable organization. The ads  
17       he placed in a Catholic paper indicated the money was  
18       coming from a compassionate organization and that he  
19       was a church benefactor. And this philanthropy aspect  
20       of the case was repeatedly played up to the victims as  
21       they met largely with Mr. Radhakrishnan.

22               The gross receipts being more than \$1 million,  
23       the Government submitted a chart that showed that  
24       Mr. Caramadre himself received more than \$4 million in  
25       profits from the insurance companies. That's just



1 profits. That's not gross receipts and that doesn't  
2 even include the commissions. So clearly he received  
3 more than a million dollars.

4 With respect to the obstruction of justice, we  
5 believe that Mr. Caramadre twice obstructed justice in  
6 this case. He's only getting one two-level enhancement  
7 because that's all that's allowable under the case law.  
8 Once by tampering with a witness during the grand jury  
9 phase of the case and once by committing perjury in his  
10 testimony before your Honor.

11 We believe that Mr. Caramadre also abused his  
12 position and his skill as an attorney and as an  
13 insurance producer in various ways to further the  
14 scheme including by representing on numerous occasions  
15 falsely that he was the attorney for one of the  
16 terminally-ill individuals, which prevented the  
17 insurance companies and the brokerage houses from  
18 reaching out directly to them.

19 And I believe those are all of the objections  
20 that Mr. Caramadre's attorneys have lodged on the  
21 presentence report.

22 THE COURT: Can you just maybe spell out your  
23 response to the objection with respect to the \$22  
24 million -- I'm sorry, the 22-point enhancement. The  
25 argument, if I understand it, is essentially that

1 Mr. Caramadre is saying that nobody really lost any  
2 money, that the bond issuers -- it just advanced the  
3 date of the payment on the bonds and that, in fact, the  
4 bond issuers received some benefit with respect to the  
5 payment on the bonds. Can you respond to that a little  
6 more thoroughly.

7 MR. VILKER: Sure. Well, before I talk about  
8 the bond issuers, of the 46 million, 34 million comes  
9 from the insurance companies, and there's no question  
10 that these were actual losses. They paid out much more  
11 than they took in. So that's 34 of the 46.

12 With respect to the 12 plus million of losses to  
13 the bonds issuers, we presented before Judge Sullivan  
14 the testimony of a prominent expert on death-put bonds,  
15 Dr. Andrew Kalotay. And he testified that because the  
16 bonds are being redeemed years before they otherwise  
17 would, that causes in effect a time value loss of money  
18 to the bond issuers. Under the terms of the  
19 prospectuses if there was a bond that was a \$100,000  
20 bond, in the normal course of operations, they would  
21 not have to redeem that bond for perhaps 20, 30 years  
22 down the road. But because of the fraudulent early  
23 redemption of the bond, they were required to redeem  
24 the bonds and get a full maturity value, the full  
25 \$100,000 twenty, thirty, forty years, whatever the case

1       may be, earlier than they otherwise would have.

2               So what Dr. Kalotay testified is -- he had a  
3       patent on this long before he was retained by the  
4       Government in this case -- was that when you take that  
5       factor into account and you discount it by other  
6       factors such as the possibility they would have had to  
7       redeem it earlier in any event if someone else had  
8       purchased it, someone else legitimately had passed  
9       away, the bonds were redeemed and that factor was  
10      discounted, and he does a very complicated mathematical  
11      analysis that resulted in \$12.3 million of losses,  
12      which are in essence money that had to be paid out  
13      earlier than they otherwise would have been.

14             THE COURT: All right. Thank you.

15             Well, to some degree a lot of this discussion is  
16      academic because we are dealing here with a binding  
17      plea agreement which caps the sentence at ten years,  
18      but I am required to place on the record the advisory  
19      guideline calculations and to rule on these various  
20      objections.

21             I don't find that any of the objections have any  
22      merit and so I'm going to deny all of the objections to  
23      all of the enhancements. I'm going to accept the  
24      presentence report as it is drafted, and I'm going to  
25      at this time set forth the advisory guideline

1 calculations as set forth in the report.

2 The base offense level as has been noted is a  
3 level 7. There is a 22-point adjustment because of the  
4 amount of the loss. The loss was greater than \$20  
5 million but not more than \$50 million.

6 I do think it has been established with  
7 sufficient detail in the presentence report and also in  
8 the Report and Recommendation prepared by Judge  
9 Sullivan that the amount of loss is at least \$20  
10 million and closer to the amount stated in there,  
11 \$47,596,000.

12 There's a four-level increase because the  
13 offense involved more than 50 victims. This is obvious  
14 from all the material that has been submitted.

15 There's a two-level increase because the  
16 Defendant misrepresented himself as representing a  
17 charitable or educational, religious or political  
18 organization. Here he obviously and clearly described  
19 the program as a special program, a philanthropic  
20 program for the terminally ill.

21 There's an additional two-level increase because  
22 the Defendant utilized sophisticated means in the  
23 fraudulent scheme; an additional two-level increase  
24 because the offense involved the unauthorized transfer  
25 or use of any means of identification to produce

1 another means of identification as detailed in the  
2 presentence report. Obtaining the information from the  
3 terminally-ill individuals and then obtaining the  
4 variable annuities and death-put bonds on those  
5 individuals meets that definition.

6 There is a two-level increase because the  
7 Defendant derived more than \$1 million in gross  
8 receipts. There's another two-level increase because  
9 the Defendant -- or the offense involved unauthorized  
10 public dissemination of personal information, in this  
11 case the personal information of the terminally-ill  
12 individuals.

13 There's a four-level increase because the  
14 offense involved a violation of securities laws.  
15 There's an additional two-level increase because the  
16 Defendant knew or should have known that the victims,  
17 some of the victims were vulnerable, so-called  
18 vulnerable victim enhancement.

19 There's a four-level increase because the  
20 Defendant was the organizer or the leader of criminal  
21 activity that involved five or more participants. And  
22 finally -- or not finally, but there's an additional  
23 abuse of position of trust or special skill enhancement  
24 of two levels; and finally, an enhancement of two  
25 levels for obstruction of justice.

1 All told the adjusted offense level is 57. The  
2 Defendant has no criminal history and a level 57,  
3 criminal history category of 1, the advisory guideline  
4 range -- I think I need some help on this from counsel.  
5 The Government has indicated that the advisory  
6 guideline range would be life imprisonment. That's  
7 what the guideline manual looks to be, but I think  
8 Probation said 300 months?

9 PROBATION OFFICER: Based on the statutory  
10 maximum of 20 years on one count and 5 years on the  
11 other, yes, your Honor.

12 THE COURT: All right. Because of the statutory  
13 maximum that guideline range would be restricted to 300  
14 months.

15 Now, as I previously indicated, this is a  
16 binding plea agreement so the agreed-upon sentence has  
17 been capped at ten years, and we can move now to  
18 hearing from the Government with respect to the  
19 appropriate sentence.

20 MR. VILKER: Thank you, your Honor.

21 Your Honor, as you're aware, the Court must  
22 begin the analysis of the appropriate sentence by  
23 examining the guideline range. And here, as your Honor  
24 just indicated, the guidelines are at a level 57, which  
25 easily calls for a life imprisonment sentence under the

1 guidelines. There's no question that the guidelines  
2 are too high in this case and the Government would not  
3 be advocating for a sentence of life imprisonment even  
4 if we were not bound by the terms of the plea  
5 agreement.

6 However, it is important to understand why the  
7 guidelines are as high as they are in this case. They  
8 are as high as they are because the offense conduct  
9 involved almost every single aggravating factor the  
10 Sentencing Commission determined to be relevant in a  
11 fraud case. It involved a huge amount of loss. It  
12 involved a large number of victims. It involved  
13 extremely vulnerable victims. It involved conduct that  
14 constituted obstruction of justice and additional  
15 factors your Honor just indicated.

16 When all these factors are present in the same  
17 case the result is a guideline range that calls for  
18 life imprisonment and that is the point at which the  
19 sentencing analysis must begin in this case.

20 In the binding plea agreement, the Government  
21 agreed to cap Defendant's sentence at ten years  
22 imprisonment. At that point in time, we concluded that  
23 a ten-year sentence, notwithstanding all the  
24 aggravating factors in this case, was reasonable as  
25 Mr. Caramadre had decided to plead guilty and had

1       apparently accepted responsibility for his conduct.

2       One of the key motivating reasons why the Government  
3       agreed to this plea agreement was that it provided the  
4       victims with some closure and some piece of mind in  
5       this case as Mr. Caramadre was accepting  
6       responsibility.

7               As the Court knows, a couple of months after he  
8       entered his guilty plea, Mr. Caramadre attempted to  
9       withdraw the plea and committed perjury in the process.  
10      He, in effect, violated his key obligation under the  
11      terms of his plea agreement as he is no longer  
12      accepting responsibility for his conduct.

13             The Government, however, is still bound by the  
14      terms of the plea agreement and therefore recommends a  
15      ten-year sentence.

16             There are three factors we believe are  
17      especially relevant to this Court's decision under 18  
18      U.S.C. 3553 and that is the nature of the offense, the  
19      characteristics of the Defendant and the need for  
20      deterrence. I'd like to address each of those factors.

21             As far as the nature of the offense, clearly the  
22      factor that distinguishes this case from other fraud  
23      cases is the exploitation of terminally-ill  
24      individuals, and I'll discuss that aspect of the case  
25      in a moment. But before even discussing the fact that



1 terminally-ill individuals were involved, it's  
2 important to recognize this was a massive fraud against  
3 the insurances companies and bond issuers. It was a  
4 fraud in which more than \$46 million was stolen over a  
5 15-year period.

6 Mr. Caramadre lied to these companies over and  
7 over again throughout the years to perpetrate this  
8 scheme. He provided false information on application  
9 forms concerning the relationship between the  
10 annuitants and the owners. He provided false  
11 information on virtually every brokerage application  
12 form concerning the financial resources and investment  
13 history of the co-account holders.

14 Representatives of three different companies  
15 came to meet with Mr. Caramadre in person to get  
16 answers as to why a lawyer was opening up all these  
17 accounts and annuities with people who died soon  
18 thereafter. Mr. Caramadre lied over and over again in  
19 these meetings telling the company representatives that  
20 these people were all his estate planning clients and  
21 that they were investing their own funds into the  
22 death-put bonds to benefit their own estates.

23 Mr. Caramadre knew full well that what he was  
24 doing was causing millions of dollars in losses to  
25 these companies, and he took many steps to deceive the

1 companies. One of these steps he took with regularity  
2 was engaging in money laundering by opening annuities  
3 and bond accounts in the names of other people,  
4 including Mr. Radhakrishnan, so the companies wouldn't  
5 put it together that it was all the same person who was  
6 causing the millions of dollars in losses.

7 In short, your Honor, this was a massive  
8 financial fraud. What Mr. Caramadre doesn't seem to  
9 realize is that when he defrauds these large companies  
10 he is stealing from everyone around him. These  
11 companies have shareholders who suffer the losses. The  
12 companies also increase the prices of their products,  
13 including insurance premiums, to cover the cost of  
14 fraud. The reality is that this behavior harms many  
15 innocent human beings.

16 Therefore, your Honor, even if this case did not  
17 involve terminally-ill individuals a large sentence  
18 would be called for. What really distinguished this  
19 case, however, is the exploitation of terminally-ill  
20 individuals. Mr. Caramadre portrayed himself as I  
21 philanthropist who wanted to help dying people. He  
22 placed ads in the Rhode Island Catholic paper  
23 describing himself as a benefactor and from a  
24 compassionate organization. Virtually every  
25 terminally-ill person and family member we interviewed

1 was told and was under the firm belief that the money  
2 they were receiving was just charity, that it was just  
3 a gift from a selfless philanthropist. They were  
4 stunned when they learned that brokerage account or  
5 annuities had been opened in their names or the names  
6 of their loved ones. They were even more stunned when  
7 they learned that some stranger had made money as a  
8 result of the deaths of their loved ones.

9 After July of 2007, the Co-Defendant in this  
10 case, Raymour Radhakrishnan, met with most of the  
11 terminally-ill people who responded to these ads, and  
12 he told them over and over again that this was just a  
13 charity, never telling them that anyone else stood to  
14 make money from their deaths.

15 While Mr. Radhakrishnan met with most of the  
16 individuals from July of 2007 on, it was Mr. Caramadre  
17 who met with most of these individuals beforehand,  
18 before Raymour became his employee. A number of  
19 different people who met directly with Mr. Caramadre  
20 told us the exact same version of events, that  
21 Mr. Caramadre never mentioned a word to them about any  
22 kind of annuity being opened in their names. These  
23 people included Kenneth Blowers, who testified at the  
24 trial in this case. Mr. Blowers testified that he nor  
25 his incoherent late wife had no idea that Mr. Caramadre

1 opened four annuities in the name of his late wife who  
2 had suffered a lobotomy-like operation.

3 Other individuals who similarly testified that  
4 they met with Mr. Caramadre directly and he never told  
5 them anything about opening any annuities include  
6 Robert Mizzoni, Mr. Caramadre's former school bus  
7 driver and Getahun Aynalem, a man who miraculously  
8 recovered from AIDS only to discover that Mr. Caramadre  
9 had opened up two annuities in his name without his  
10 consent.

11 Raymour did not go off the Reservation in this  
12 case in failing to disclose to dying people that  
13 annuities and bonds would be purchased in their names.  
14 Raymour was on the Reservation. He continued the same  
15 pattern of deception that Mr. Caramadre employed for  
16 years before Raymour began his employment at EPR.

17 Simply put, Mr. Caramadre didn't care whether  
18 individuals understood that annuities and bonds would  
19 be purchased in their names. As a matter of fact, the  
20 evidence the Government would have presented at trial,  
21 if Mr. Caramadre hadn't pled after the first week,  
22 would have been that Mr. Caramadre made it very clear  
23 to his co-conspirators that the less the terminally-ill  
24 individuals knew about what was happening, the better.

25 There's a reason why the terminally-ill people

1 were presented with blank signature pages and were  
2 denied copies of the documents they signed.

3 Mr. Caramadre made a knowing and intentional decision  
4 to keep the terminally-ill individuals and their family  
5 members in the dark.

6 Now, I need to spend a few minutes to talk about  
7 the effect that all of this had on the victims of this  
8 case. As your Honor knows, almost all the people  
9 Mr. Caramadre listed on these annuities and bonds have  
10 passed away. They therefore cannot be here to tell the  
11 Court how it impacted them to learn that their  
12 identities were used without their consent and that  
13 substantial sums were made from their deaths.

14 We met with a number of these very ill  
15 individuals before their deaths and feel an obligation  
16 to speak on their behalf today. The few terminally-ill  
17 individuals who were still alive when this  
18 investigation commenced expressed to us that they felt  
19 completely exploited when they learned that  
20 Mr. Caramadre and Raymour had opened up accounts and  
21 annuities in their names and that they were trying to  
22 profit from their deaths. One of these individuals was  
23 Edwin Rodriguez, who testified in the trial of this  
24 case. It took him hours to get dressed during the  
25 morning of his testimony, and he was in a tremendous

1 amount of pain. Despite being in significant pain and  
2 our attempts to actually persuade him not to testify  
3 because of the physical pain he was in, he insisted  
4 that he would find a way to come to Court to explain to  
5 the jury and to your Honor of how he had been  
6 exploited.

7 Other individuals who spoke with us before they  
8 passed away included Richard Wiley, Patrick Garvey and  
9 Robert Mizzoni. Despite being very ill, these  
10 individuals wanted to give depositions in this case so  
11 their testimony could be preserved. All of these  
12 individuals were upset and hurt to learn that  
13 Mr. Caramadre had opened up accounts and annuities in  
14 their names without their consent and that he was  
15 trying to make money upon their deaths.

16 Most of the people we met with during the  
17 investigation were the family members of the people who  
18 had passed away. These family members felt tricked and  
19 exploited when they learned that Mr. Caramadre and  
20 Raymour had used their loved ones deaths for their own  
21 profit. It is difficult to put into words how taken  
22 advantage of these people felt. Many of these  
23 individuals have written letters to the Court  
24 explaining their emotions to the Court. They wrote  
25 that they feel anger for having been deceived and

1 wounded by the fact that they let their loved ones  
2 identities be used without their knowledge and consent.  
3 Even in this cynical age when people are skeptical when  
4 they are asked to sign blank signature pages, it was  
5 simply unthinkable as they were watching their loved  
6 ones die to believe that this philanthropist was  
7 tricking them into opening accounts and annuities so  
8 that he could make money off of their deaths.

9 When they later learned that the unthinkable had  
10 happened, they felt extremely betrayed and taken  
11 advantage of. Most of these people told us that they  
12 would never have let their loved ones sign these blank  
13 signature pages if they were in their right minds but  
14 that they did so because they were overwhelmed by grief  
15 and exhaustion.

16 What Mr. Caramadre stole from the terminally-ill  
17 individuals was the last thing they had, their  
18 identities and the right to decide for themselves  
19 whether to allow some stranger to profit from their  
20 deaths.

21 The next factor under 18 U.S.C. 3553 is the  
22 characteristics of the Defendant. In this factor, the  
23 Government recognizes that there clearly are a number  
24 of very positive traits that Mr. Caramadre possesses.  
25 He's clearly a caring father and caring husband. He's

1 devoted to the Catholic Church, and he has given  
2 significant sums of money to charity over the years.  
3 He obviously has a lot of support from his family and  
4 friends and this positive side of Mr. Caramadre was  
5 attested to in the letters of support that he  
6 submitted.

7           However, there is another side to Mr. Caramadre.  
8 Rather than looking inward and accepting some  
9 responsibility for his own conduct, throughout this  
10 case Mr. Caramadre has time and again lashed out at  
11 others when it suits his interest. This tendency was  
12 on full display in this courtroom when Mr. Caramadre  
13 viciously went after his former attorneys in the motion  
14 to withdraw hearing, even testifying that his friend  
15 and fellow church member Michael Lepizzera had  
16 committed perjury before this Court.

17           The irony, of course, is that his former  
18 attorney's hard work in negotiating this plea agreement  
19 and representing Mr. Caramadre for years is what may  
20 well save him years of imprisonment today.

21           This was a case in which there was overwhelming  
22 evidence of misrepresentation after misrepresentation  
23 being made by Mr. Caramadre, many of them in writing.  
24 These misrepresentations were made to a large number of  
25 audiences including terminally-ill individuals and



1 numerous company representatives. Rather than  
2 acknowledge his conduct and show some remorse,  
3 Mr. Caramadre instead chooses to ignore the mountain of  
4 evidence of his guilt so that he can tell everyone  
5 around him that he is innocent.

6 Mr. Caramadre has a stunning ability to  
7 completely ignore the actual facts and to deny any and  
8 all responsibility for his conduct.

9 Finally, your Honor, the Government believes  
10 there's a strong need for deterrence in this case.  
11 This has been a highly publicized case in which the  
12 Defendant has intended to manipulate the judicial  
13 process. He's engaged in a 15-year scheme in which he  
14 defrauded companies out of \$46 million. He has done so  
15 by exploiting the most vulnerable members of the  
16 community and he has failed to accept even a scintilla  
17 of responsibility for his conduct. A strong message  
18 needs to go out to other would-be white collar  
19 criminals that this kind of behavior will not be  
20 tolerated.

21 In sum, your Honor, this is a case that cries  
22 out for the maximum allowable sentence of ten years  
23 under the plea agreement. The Government also  
24 recommends that the Court impose full restitution in  
25 this case in an amount to be determined by the Court

1       that the Government submits is more than \$46 million,  
2       and the Government recommends that the maximum fine  
3       allowable in this case of \$500,000 be imposed. And we  
4       make that recommendation knowing full well that  
5       Mr. Caramadre will have a large restitution order, but  
6       as this was a monetary crime, we believe a monetary  
7       penalty is appropriate and we do note that  
8       Mr. Caramadre still has significant assets to make this  
9       fine payment as provided in the presentence report.

10           THE COURT: Let me ask you just a few questions.  
11       Maybe we start at the end with respect to the  
12       restitution issue. One thing that's weighing on me in  
13       determining the appropriate amount of incarceration in  
14       this case is the concern with respect to restitution.  
15       With many defendants, there's no hope of restitution.  
16       But in this case, I think there's at least some  
17       possibility that given Mr. Caramadre's talents and  
18       abilities that he could possibly make a dent in  
19       whatever that restitution order is. Of course,  
20       whatever amount of time that he's incarcerated would  
21       prevent him from engaging in money-making activities to  
22       pay back. How do I balance that?

23           MR. VILKER: It's an appropriate balancing act  
24       that your Honor has to conduct. The Government's view  
25       is the outrageousness of the conduct and the need to

1 provide deterrence outweighs the need for prompt  
2 restitution in this case as desirable as that would be.

3 My own view is in effect that would almost  
4 reward Mr. Caramadre for having some resources to pay  
5 some restitution, some ability to pay restitution,  
6 getting a lower sentence of imprisonment just so he can  
7 pay off the restitution earlier. I think if this were  
8 a close case and the guidelines were anywhere near ten  
9 years that that might be a relevant factor pushing down  
10 the sentence somewhat. I think in this case the need  
11 to punish this conduct, the need for deterrence is so  
12 great that a lower-end sentence below ten years so that  
13 these companies could get restitution earlier would be  
14 a mistake.

15 THE COURT: Another question I have for you is  
16 that in some of the public descriptions of this case  
17 it sounds as if Mr. Caramadre defrauded the  
18 terminally-ill individuals out of these millions of  
19 dollars, and of course that's not the case. All these  
20 terminally-ill individuals actually made money, which  
21 makes it very unusual. And I'm not in any way  
22 attempting to minimize their status as victims but we  
23 all know that the reality is that they received  
24 thousands of dollars. So the victimization of these  
25 folks is more on the emotional or psychological side as

1       opposed to the monetary side. It's just as real but  
2       that's the nature of it.

3               Now, if you took out of the equation the  
4       fraudulent activity with respect to the stolen  
5       information, the identities and the way in which it was  
6       used, in other words if Mr. Caramadre and Radhakrishnan  
7       were totally up front with each of these individuals  
8       and explained to them thoroughly that you're going to  
9       be used as a measuring life for an annuity and somebody  
10      else is going to make a lot of money off of this, and  
11      this is all being done because the way these companies  
12      have structured these variable life annuities allows  
13      this and they went ahead and signed on and took the  
14      money; and if you assume that they didn't falsely fill  
15      out forms or sign signatures that weren't theirs, in  
16      other words conducted this as a non-fraudulent  
17      activity, then the losses here -- this would just be a  
18      civil case, right?

19             MR. VILKER: If there were no crimes committed,  
20      it would be a civil case.

21             THE COURT: Well, I'm trying to get at the point  
22      that the amount of money that was lost to some degree,  
23      shouldn't some of that, the weight of that be put on  
24      the shoulders of the companies for designing their  
25      products in this way?

1           MR. VILKER: Certainly I think the companies  
2 would look at it that perhaps they should have done  
3 more at an earlier stage. This is one of the problems  
4 with the case ending after four days of trial. The  
5 evidence would have shown that from a very early stage  
6 the companies picked up on what was happening, that  
7 many of them terminated Mr. Caramadre, refused to let  
8 him do any business. He then submitted annuity  
9 applications in other people's names so they wouldn't  
10 know it was really his money, so they wouldn't know it  
11 was him. They came and questioned him, what's going on  
12 here with these accounts. And he lied to them over and  
13 over again.

14           So whereas the design of the products could have  
15 been better to prevent the fraud, the reality is in  
16 practice after a very short period of time each of  
17 these companies realized that they were being defrauded  
18 and took steps to stop it, and Mr. Caramadre thwarted  
19 those attempts by perpetrating the fraud.

20           But I think the bigger picture that I think your  
21 Honor would be getting at is if you take away the  
22 terminally ill part of this case, I think it's a very  
23 different case. There's no question about it. You  
24 have a man that's defrauding large companies and it  
25 deserves punishment, deserves to have a restitution

1 order. Does it deserve ten years imprisonment? My own  
2 view is it would be no. My own view would be something  
3 less and I would have to discuss it with my office but  
4 something less would be appropriate.

5 What really makes this case extreme is that even  
6 though he was paying money to these people, he had a  
7 view of these people as if they were commodities, as if  
8 because I'm giving you money you don't need to know  
9 what's going on, you don't need to know that I'm going  
10 to be putting your name on an account and annuity and  
11 I'm going to be making money from your death.

12 And he went to these people and some of them  
13 were literally on their death beds. There's one  
14 situation where a son -- to get the signature, the son  
15 had to hold his father's hand, the first and only time  
16 he ever did this to help him write a signature.

17 There's a case, a situation where a woman was  
18 dying of breast cancer in Rhode Island Hospital, and  
19 she was given the pitch by Mr. Radhakrishnan, thought  
20 that something was wrong and used all of her energy to  
21 try to reach for the phone to call 911 or the police.  
22 She didn't have the energy to do it and her husband  
23 said not to worry about it. These were very traumatic  
24 moments for these people. And even the ones that  
25 didn't know that anything was wrong at the time, they

1 now feel completely exploited that someone could have  
2 come in on their loved one's death beds where they're  
3 sitting around crying, not sleeping day after day after  
4 day saying, We want to give you some money; please sign  
5 these forms. And when they were presented, there was  
6 no attempt at all, as has been suggested in some of the  
7 letter to the Court, to explain to these people what  
8 was happening. These people were presented with blank  
9 signature pages and told, Sign here, sign here, sign  
10 here. They were not given complete copies of the  
11 applications. Some of them asked for copies of the  
12 documents they were signing. They were told they  
13 couldn't, that they are kept in a special locked  
14 container in Mr. Caramadre's office.

15 These people when they learned later that  
16 this -- and many of them wrote thank you notes to the  
17 Defendant and some of these thank you notes said, When  
18 I die, which I know I will do soon, I will tell God  
19 about this angel on earth who gave money to  
20 terminally-ill people and asked for nothing in return.  
21 These people feel now that their faith -- really their  
22 faith in humanity has been shattered that someone could  
23 have had the gall to come into their death beds which  
24 should have taboo, an unbelievably private moment that  
25 you just stay away from. You don't go through that

1 moment and try to trick people into signing forms. And  
2 some of the signatures are like lines. People could  
3 not even come close to signing their regular  
4 signatures, and then use their deaths to make money for  
5 yourself.

6 So if he hadn't deceived these people, as  
7 foolish as this behavior may be, it wouldn't have been  
8 illegal. But that's the whole point of this case.  
9 These people have the right to make that decision.  
10 They have the right to make sure that decision was not  
11 taken from them. And just giving somebody money  
12 doesn't give you the right to open up accounts in their  
13 names and try to make money off of their deaths.

14 THE COURT: Okay. Thank you very much,  
15 Mr. Vilker.

16 Mr. Murphy?

17 MR. MURPHY: Thank you, Judge.

18 Judge, this is a difficult case in the respect  
19 that the Court and the Government and the Defendant are  
20 well aware of the tortuous turns and the events that  
21 took place and how we finally got here today, December  
22 16, for sentencing.

23 Judge, as the Court is well aware, Mr. Caramadre  
24 during the start of trial pled guilty last November to  
25 two counts, Count IX and Count XXXIII. And as



1 Ms. Mattias has said, that is where the 25 years comes  
2 in. Twenty years on one count and five on the other,  
3 and if you run them consecutive it would be a 25-year  
4 statutory penalty that Mr. Caramadre would face.

5 What's more important today, Judge, is as we're  
6 here for sentencing, and Mr. Caramadre will address the  
7 Court at some point this morning, and what he says may  
8 not be what the Court typically hears at sentencing.  
9 What I have to add to that, your Honor, is that  
10 Mr. Caramadre did at one point offer his plea to two  
11 counts, and again we have heard for three or four years  
12 the travel of this case.

13 I think it's important to know that in the  
14 beginning when the investigation was launched against  
15 Mr. Caramadre that at one point he did go into the U.S.  
16 Attorney's Office and provided names of the so-called  
17 measuring lives, insurance companies, bond companies,  
18 et cetera. Because as the Court has just asked  
19 Mr. Vilker, in a perfect scenario if Mr. Caramadre sat  
20 down and videotaped people and disclosed everything, I  
21 doubt there would be any objection from any of the bond  
22 issuers. In fact, Judge, to take my argument out of  
23 order because there is going to be a restitution order,  
24 I would look at the bond companies. And again, Judge,  
25 when a tranche of bonds is launched, the individual

1 investor has no say in the conditions of that bond.  
2 It's a contract of adhesion, made by the bond company  
3 and whoever is helping with the launch of the tranche  
4 of bonds.

5 But on those bonds, one of the things that make  
6 them marketable is the fact that many of them have what  
7 is known as a death-put. Three ways, four ways to  
8 surrender bonds. One is the maturity date or if a  
9 company calls a bond or if you have a death-put on your  
10 bond, and that's what Mr. Caramadre looked at. But  
11 these companies sold the bonds when they first came out  
12 at face value. They received a hundred cents on the  
13 dollar. Mr. Caramadre bought these bonds on the  
14 secondary market when they were available to anybody  
15 and they had the death benefit. But these companies  
16 knew what a death benefit was because that language is  
17 contained in the bond prospectus, which runs with that  
18 particular tranche of bonds from cradle to grave.

19 And what's important about that as was argued  
20 during the restitution hearing was that these companies  
21 make provisions that in any calendar year a number of  
22 bonds would be put back to the company because of the  
23 death-put provision. And again, when it comes to the  
24 annuities and the bonds, I would say it's analogous and  
25 it's probably a very, very bad example but we're on the

1 Christmas season now and you will see in the next few  
2 weeks in the Sixth Division District Court here in  
3 Providence, you'll see a spike in the number of  
4 shoplifting cases because bad economic times, people to  
5 provide for others will go out and go to stores and  
6 take goods that don't belong to them. But what's  
7 important, Judge, is the amount of money, over \$45  
8 million is staggering to everybody in this courtroom  
9 but when we piece it out amongst these bond companies  
10 and the insurance companies and look where it is to  
11 relation to the amount of monies that these companies  
12 operate with, it is just an ink dot on the timeline of  
13 time, your Honor. We're talking about billion-dollar  
14 bonds that were sold and we're looking at \$40 million  
15 globally.

16 But Judge, we're here to sentence Mr. Caramadre,  
17 and Mr. Caramadre, as the Court is well aware, has  
18 signed a non-binding plea agreement in which the floor  
19 is zero, the ceiling is ten. And I find it interesting  
20 Mr. Vilker, who I have a great deal of respect for,  
21 comes in and asks for ten years and he gives the facts  
22 why the Government was asking for ten years but back  
23 when plea negotiations were happening as indicated by  
24 the Court in one of its decisions the original plea or  
25 one of the original pleas was a plea from two to five

1 years and it was put in the document that Mr. Caramadre  
2 would not accept that plea because it contained a  
3 minimum of two years. However, the Government was  
4 willing a year ago to offer Mr. Caramadre a plea of two  
5 to five years and now today they are offering ten.

6 On behalf of Mr. Caramadre, we are arguing that  
7 the ten is nowhere near what he should receive as a  
8 sentence. You'll hear, as I said, not to be redundant,  
9 that Mr. Caramadre will address the Court.

10 But let's look at the crime itself, your Honor.  
11 Mr. Caramadre, Judge, I can tell you beforehand is  
12 probably not going to admit to the crime, but he has  
13 pled to two counts.

14 So when we look at the offense conduct, your  
15 Honor, there was no gun used. There was no violence.  
16 There is no financial destruction. The victims, as the  
17 Court just pointed out, the terminally ill, the  
18 measuring lives, as distasteful as it is in this  
19 courtroom, they did not lose anything, your Honor. In  
20 fact, they gained money.

21 Now, again, your Honor, distasteful and wrong as  
22 it may be, they did not suffer any economic harm. And  
23 as the Court said, which happens to be in our notes,  
24 they were hurt emotionally and anybody can agree that  
25 if you're at the death bed of a loved one and you're

1 not thinking clearly and somebody comes in and the next  
2 thing you know finances aren't where they are or where  
3 they should be because of conditions and sickness and  
4 you're handed an amount of money, well, at the time,  
5 Judge, these families felt good. A year later, two  
6 years later, three years later when the FBI knocked on  
7 their door or law enforcement knocked on their door and  
8 said did you realize you may have gotten \$5,000 but  
9 somebody else profited in the six figures, obviously  
10 that is going to hurt emotionally. It doesn't make it  
11 right but, again, the terminally ill who were used as  
12 measuring lives suffered absolutely no economic harm.  
13 And I think that's important when we decide on a scale  
14 of justice what the sentence should be.

15 THE COURT: Let me interrupt you there. I think  
16 Mr. Vilker put it really well when he said that one of  
17 the really offensive things about this crime is the  
18 attitude that you can treat terminally ill, poor,  
19 vulnerable individuals as commodities. And that's  
20 essentially what -- I hadn't thought of it that way,  
21 but I think that description by Mr. Vilker probably  
22 sums it up better than anything I've heard up to this  
23 point. It really is treating these people like  
24 commodities. And in a way, I mean, isn't that worse  
25 than stealing money from them?

1           MR. MURPHY: Well, Judge, at the time I'm not  
2           sure that the terminally ill, who most of them have  
3           passed on, did not know that they were being -- if the  
4           plea stands, which it does, your Honor, knew that they  
5           were being taken advantage of as far as their personal  
6           identification, their signatures, et cetera. I don't  
7           think it's worse than doing the deed where somebody  
8           goes into a hospital room where there's a  
9           terminally-ill person who has their belongings under  
10          the hospital bed and takes the wallet out and goes and  
11          opens credit cards and uses credit cards. I think,  
12          your Honor, that that's a situation where there is  
13          direct, financial damage, that it's worse.

14                 And again, as I said in the beginning, yes, this  
15          is distasteful, but, Judge, when we look in business,  
16          key-man life insurance, products like that exist.  
17          They've existed for years and they will exist well  
18          after this case, and I think the company is not looking  
19          at the terminally-ill individuals but the companies  
20          know of this. They take precautions when they issue  
21          bonds.

22                 Again, Judge, there's no relationship questions  
23          that we've seen during the course of this. There's  
24          nothing illegal about having joint tenants on a bond  
25          who are not related.

1           Again, a terminally-ill person who is surrounded  
2 by loved ones, absolutely distasteful for somebody to  
3 come in to take advantage if they knew they were taking  
4 advantage of those people.

5           But, Judge, when we look at the crime itself,  
6 again, we have a first offender. And the publicity  
7 surrounding this case, and I think the Court did hit  
8 that nail squarely on the head, was there is a  
9 perception out there, when I say "out there," in the  
10 public, that Mr. Caramadre took money from  
11 terminally-ill people. Well, he did not take money  
12 from terminally-ill people. He gave them money to get  
13 their signature, their identifying data and stuff of  
14 that nature, but they were not harmed financially.

15           Judge, this case comes down to the factors that  
16 are set in 18 U.S.C. 3553 as far as what should be a  
17 fair and just sentence to serve the ends of justice.  
18 The Government in this case comes in and says ten  
19 years. And in their opinion, they've done their job,  
20 they've asked for the maximum. The hard job  
21 unfortunately, Judge, falls in your lap because you  
22 have to balance, as distasteful as these crimes are,  
23 with are there other factors of Mr. Caramadre that he  
24 possesses that satisfies the sentencing factors in 18  
25 U.S.C. 3553, and I say there are several, your Honor.

1           Judge, as the Government pointed out in its  
2       brief, characteristics of the Defendant on page 16,  
3       Mr. Vilker correctly contended by all accounts  
4       Caramadre is devoted to his family, the Catholic  
5       Church, and he has over the years donated significant  
6       sums to a number of charities. And those are  
7       donations, your Honor, that many of them were public.  
8       But there's also a side of Mr. Caramadre where the  
9       donations were made in private. And Mr. Caramadre last  
10      week, your Honor, on his behalf, 89 letters were sent  
11      in on his behalf to this Court, to the Government and  
12      to Probation to show the other Joe Caramadre.

13           Now, your Honor, you've heard from the  
14      Government about the bad Caramadre. I'm now going to  
15      try and attempt to show you the good Joseph Caramadre.  
16      In fact, your Honor, the question is: Who is Joseph  
17      Caramadre? We know Mr. Caramadre is 53 years of age,  
18      will be 54 in January; that he's been a life-long  
19      resident of the State of Rhode Island with no prior  
20      criminal contact, no arrests , no criminal history  
21      before this case.

22           He's a 1978 graduate of Cranston West High  
23      School, attended the University of Rhode Island where  
24      he completed his bachelor's degree in less than four  
25      years, started in the insurance business during the



1 early 1980's, was very, very successful. In 1985, your  
2 Honor, he was the victim of a drunk driving accident,  
3 which two things happened. It made him bedridden and,  
4 second, introduced him to his wife, Paula Caramadre,  
5 who first came to know Joseph in 1985. They were  
6 married in 1990, had been living together in a very,  
7 very good and strong marriage for the last 23 years.  
8 They have three wonderful children, your Honor. And I  
9 think the letters from the children themselves sum it  
10 up best. It shows a father who cares about his kids,  
11 your Honor, a father who has spent a great deal of time  
12 in his children's lives. And the three letters were  
13 different. We had his son, Michael, write a letter who  
14 now because of the change in circumstances had to  
15 become the man of the family at age 19. He is a  
16 sophomore at Bentley College.

17 We have his 17-year-old daughter, who is a  
18 senior in high school. And we have his 13-year-old,  
19 who is dyslexic, who needs special help in school, who  
20 has wrote a very, very compassionate letter on behalf  
21 of his father at a tender age when he needs his father  
22 there. We know he's had the benefit of having a large  
23 extended family here in Rhode Island, combination of  
24 five brothers and sisters who all reside here, four in  
25 Cranston, one in Warwick. And we know that he's had

1 the fortune of having a good, loving set of parents  
2 that have been with him. His mom, obviously, passing  
3 last week but having a life-long relationship with his  
4 family.

5 Judge, he's a guy who the 89 letters which have  
6 come from all walks of life will attest to the good of  
7 Joseph Caramadre.

8 We have a powerful letter from former Rhode  
9 Island Supreme Court Judge Robert Flanders who talks  
10 about this case, talks about Joe, talks about his  
11 belief in Joe and talks about his expertise. We have  
12 the former United States Ambassador to the Vatican and  
13 Boston Mayor, Mayor of Boston, Raymond Flynn, who  
14 details in his short letter how when he played  
15 basketball for Providence College in the 1960's he got  
16 involved in the Big Brothers organization and that is  
17 how he met Joe Caramadre.

18 We've also learned as to the award that Joseph  
19 Caramadre and his family received from the Big  
20 Brothers, the humanitarian award. We have letters,  
21 Judge, from people that talk about Joe Caramadre that  
22 aren't public. Joe Caramadre meeting a woman who  
23 needed an operation and the operation went wrong.  
24 Mr. Caramadre had no stake in the outcome of that  
25 litigation but paid the legal fees. And the case

1       turned out the wrong way for the poor woman and  
2       Mr. Caramadre expended out of his own pocket over  
3       \$160,000 in legal fees.

4               We have the fact that there are other people,  
5       there's a doctor who was a client of Mr. Caramadre, a  
6       Dr. Crossman, who stated that he had purchased an  
7       insurance policy where in the beginning of the terms  
8       there is an annual policy provision that requires  
9       several thousand dollars to be paid. And the doctor  
10      had a tough circumstance where he could not make the  
11      policy premium that year and Mr. Caramadre paid the  
12      premium with no benefit to himself, did not ask for a  
13      signed loan document, just out of the goodness of his  
14      heart. I mean, the 89 letters are replete with stories  
15      like that, where he has advanced thousands and  
16      thousands of dollars to people, some that he knew well,  
17      some that he didn't know well, just to help.

18             So your Honor, you almost have, and I hate to  
19      use the term, but you almost have a Dr. Jekyll/Mr.  
20      Hyde-type situation. That's where the sentencing  
21      balance needs to come in. It's easy to say ten years.  
22      It's harder, your Honor, to say less but there are  
23      reasons to say less and I would implore the Court to  
24      please say less.

25             Again, when we look at the criminal history is

1 non-existent. It's not a crime of violence. The  
2 characteristics of the crime are distasteful but the  
3 balancing effect, your Honor, are 89 citizens, most of  
4 them from Rhode Island, give letters when asked, when  
5 told that the letters would be published under the new  
6 First Circuit decision that you will read about your  
7 letter online or in the Providence Journal, and 89  
8 people said, So what, we are going to put pen to paper  
9 and let the Court know what Joe Caramadre has done for  
10 us. That is part of the good side of Joseph Caramadre.

11 Also, your Honor, this morning, inadvertently  
12 was not included last week, the Government does have a  
13 copy, are photos of some awards that Mr. Caramadre has  
14 earned through the years.

15 And again, your Honor, these have nothing to do  
16 with the fact that he's before you having pled to two  
17 crimes. These are out of the goodness of  
18 Mr. Caramadre's heart that he has donated time and  
19 significant resources to organizations.

20 The United Way, your Honor, in Rhode Island,  
21 Mr. Caramadre, his and Paula's charitable foundation  
22 has given over a million dollars over the course of  
23 years to be used in a way that benefits Rhode  
24 Islanders.

25 The list is almost exhaustive. I am not going

1 to go through the list, your Honor, but when you look  
2 it impacts everybody, the St. Edward Food and Wellness  
3 Center, St. Joseph's Health Services Organization, St.  
4 Mary's Home for Children, Cranston League. We have  
5 Mr. Caramadre also with Corinna's Angels, the young  
6 girl who was stricken with a rare disease.

7 Mr. Caramadre out of his pocket flew to Washington to  
8 try and get that group recognized. So the amount of  
9 good he has done, your Honor, is enormous.

10 As to the factors in 3553, deterrence, yes, it's  
11 always been a sentencing factor. I think any portion  
12 of time in jail would be a deterrent to anybody  
13 similarly situated who wants to complete a financial  
14 crime would look to the Court and know that  
15 Mr. Caramadre received a jail sentence for a  
16 non-violent crime and that would act as a deterrence.

17 Retribution. Retribution is always a part of  
18 sentencing. We know from the letters that we've seen,  
19 from what Mr. Vilker has indicated that there are  
20 families out there that have been hurt emotionally  
21 because of his acts and that restitution is a tenet of  
22 sentencing. And also the rehabilitation.

23 Your Honor, in this case, on behalf of Joseph  
24 Caramadre, we have made a motion for a sentencing  
25 variance, and that sentencing variance is to obviously

1 be lower than the ten years that the Government is  
2 asking for, but we would say several things. We are  
3 asking this Court for a four-year sentence, two years  
4 to be served in confinement, followed by two years of  
5 home confinement. And the reason for that, your Honor,  
6 is that Mr. Caramadre in our opinion is no longer a  
7 danger to the community. He is now a person scorned.  
8 He's a person basically as former Justice Flanders'  
9 letter has said, he's lost so much. He's lost  
10 reputation. He's lost financially. He's lost his  
11 business that he worked so hard to develop. So we  
12 don't see him as a risk or a danger to the community.  
13 We think, Judge, with two years in confinement of which  
14 he's already served seven months in the Donald Wyatt  
15 Detention Facility, which in essence, Judge, is akin to  
16 a maximum facility as far as his accommodations there,  
17 we think the two years of home detention would allow  
18 him to get into the community and part of our condition  
19 was that he perform 3,000 hours of public service  
20 restitution with a Rhode Island non-profit agency while  
21 he's on home confinement. That home confinement would  
22 give him the notice each and every day, your Honor,  
23 that he did something that society does not accept.  
24 It's a reminder to him and we think that his hours of  
25 public service restitution to a non-profit would be

1 very beneficial with his expertise of finances and so  
2 forth.

3 Judge, again, with the sentencing factors, we  
4 look at his community service. The fact that he gave  
5 countless hours to a Providence soup kitchen, that was  
6 written by a former police officer who spends time  
7 volunteering with Mr. Caramadre.

8 So Judge, we think with a sentence of two years  
9 with two home confinement the public would be protected  
10 and that it would be an adequate deterrence.

11 Also, your Honor, the crimes themselves are  
12 non-violent. We think that goes into Mr. Caramadre's  
13 favor and we think the chances from empirical studies  
14 that he becomes a recidivist on these non-violent  
15 crimes is simply not there.

16 Judge, the Court asked the Government as to  
17 restitution and although we don't know the restitution  
18 order that will be handed down today, first I would say  
19 that there should be in our opinion no restitution to  
20 the bond companies because the bond companies received  
21 their money when the bonds were sold. They got a  
22 hundred cents on the dollar when the bond was first  
23 sold. But as to any other restitution that the Court  
24 finds is necessary, that that would be better served if  
25 Mr. Caramadre were on home confinement, were either

1       able to donate his time to a Rhode Island non-profit  
2       and at some point thereafter was able to enter into the  
3       work force. And I'm sure with Mr. Caramadre's skill  
4       set he will be able to be a wage earner again.

5               I think a long sentence would have the other  
6       effect. I think you would take him out of the  
7       employment market. He will be 54 years of age in a few  
8       weeks and a long sentence would not allow him to come  
9       back and work while he's still in his intellectual  
10      prime.

11             Your Honor, there are also a host of medical  
12      conditions that Mr. Caramadre suffers from and that was  
13      part of our objection to the presentence report.  
14      Ms. Mattias did answer by saying that the combination  
15      may not be severe enough under the guidelines for a  
16      variance but we think they should be enough to look at  
17      the length of sentence. And again, one condition alone  
18      is not enough, but when we add them up, Judge, we see  
19      that Mr. Caramadre has suffered from some mental health  
20      issues for almost his entire life. We see letters from  
21      his doctors that he has received.

22             So we think, Judge, when the Court fashions a  
23      condition, yes, the crime itself is distasteful. There  
24      is no way of getting around that. The good news is, if  
25      there is good news, is that the terminally ill were not



1 hurt financially. There is millions of dollars that  
2 the bond companies, that they say -- that the  
3 Government says was lost with the bond companies  
4 although we disagree, but the insurance companies, who  
5 again defined the terms of the annuity contracts, those  
6 insurance companies, your Honor, the amount of money  
7 that was lost did not bankrupt or cause any of them to  
8 collapse.

9 So I think when the Court pointed out to  
10 Mr. Vilker that it may be best suited to have  
11 Mr. Caramadre at some point out there in the work force  
12 where he could use his skills to pay back whatever  
13 restitution is ordered is appropriate.

14 So Judge, we would ask in concluding that  
15 Mr. Caramadre receive a sentence of four years with two  
16 in, followed by two in home confinement.

17 And Judge, we also have two other requests aside  
18 from our requests for the actual jail time and home  
19 confinement. One is that, as has been explained to  
20 Mr. Caramadre, the Court can't order where he would  
21 serve his sentence but we would ask, Judge, considering  
22 his strong family ties, the fact that he has three  
23 children of young age that the Court recommend to the  
24 Bureau of Prisons that he serve his sentence in a  
25 facility that is close to Rhode Island, and we would

1 ask the Court if the Court would do that. I did not  
2 ask the Government but I doubt the Government would  
3 have an objection to that.

4 The second thing, your Honor, is that  
5 Mr. Caramadre is very appreciative that this Court,  
6 Magistrate Almond allowed him to be released a few  
7 weeks back to attend the services of his mother, and he  
8 was placed on a GPS monitoring bracelet.

9 Mr. Caramadre has been charged with a Co-Defendant who  
10 has been at liberty since this case was arraigned,  
11 since the plea enter. Mr. Caramadre would ask, Judge,  
12 if it would be possible for this Court release him to a  
13 surrender date. We're not asking to surrender to a  
14 prison, but to surrender to the U.S. Marshal's Office  
15 when the day comes to begin his prison sentence when  
16 the Bureau of Prisons has decided where he should serve  
17 that sentence, is to allow him to go home on the GPS  
18 monitoring system for at least a week so that he can  
19 get his affairs in order, his financial affairs in  
20 order and just be able to spend the Christmas holiday  
21 with his family.

22 Again, the GPS system, in our opinion, Judge,  
23 would prevent Mr. Caramadre from getting into any  
24 further trouble. He's never been in trouble before,  
25 and we're sure he won't be in trouble afterwards.

1 Thank you, Judge.

2 THE COURT: All right. Thank you, Mr. Murphy.

3 Okay. Mr. Caramadre, do you wish to say  
4 anything before I impose sentence?

5 MR. MURPHY: Judge, do you wish him to go up  
6 there?

7 THE COURT: No, he can speak from right there.  
8 It's fine.

9 THE DEFENDANT: Yes, your Honor.

10 Good morning, your Honor. Thank you for  
11 allowing me to address the Court.

12 Your Honor, I owe this Court an apology. We got  
13 off on the wrong foot. I meant no disrespect as I've  
14 always been a law-abiding citizen. As an officer of  
15 the Court, I've always had tremendous respect for the  
16 Court, its authority, and certainly I did not mean any  
17 disrespect to this Court.

18 I wish to apologize to the families of the  
19 terminally ill. I apologize because it is very  
20 disturbing that they are upset and I feel so bad for  
21 them. I created this program to be a win-win situation  
22 where the terminally ill would share in some of the  
23 proceeds and it would help my clients. But I've always  
24 spent my whole life trying to help others in need. I  
25 feel very terrible that they are of the opinion that

1        somehow it was not explained to them. I know that I  
2        took great strides to explain and I don't want to  
3        dispute what the Government purports, but none of this  
4        really came up on the cross-examination.

5                The bottom line is I went and get a legal  
6        opinion on if this is legal. I asked lawyers to draw  
7        up a contract that would be suitable. I instructed my  
8        assistant, Raymour, exactly how to follow it. And I  
9        find that there's 23 names in the plea agreement which  
10       I should say only says some of these people, these are  
11       some of the people but none of the 23 I had met, none  
12       of the 23 I had spoken to; and it would have been a  
13       more convincing case if there was even one person that  
14       I met with, yet the Government chose not to put it in  
15       their plea agreement.

16               So yes, there were the 23. And of those 23,  
17       there was only one person who bought an annuity,  
18       everyone else bought bonds.

19               I'm not trying to makes excuses, your Honor. I  
20       understand the position I'm at, and I must take  
21       responsibility for what I have done so I must take  
22       responsibility because I pled guilty. Under the worst  
23       of circumstances, I have to take responsibility for  
24       what I did. I pled. But I cannot tell you what you  
25       want to hear. I cannot tell you that I am sorry that

1       these terminally-ill people got defrauded because I  
2       cannot do that. It would be a lie. And I am very  
3       sorry. I wish I could play the game. I wish I could  
4       follow the advice of my former attorneys and just take  
5       responsibility and the Judge is going to see you're a  
6       super-hero on the outside and you've paid it forward  
7       for 30 years and you've forced your -- well, encouraged  
8       your wife and children to take place in charities, at  
9       church charity, family was always anything we ever  
10      cared about. So the Judge would have to understand  
11      that you can't be this animal.

12               Well, I understand, your Honor, my credibility  
13      is not high with you and I have only been trying to  
14      rebuild it by hopefully, number one, thank you so much  
15      for giving me the pass last week to go to my mother's  
16      wake. It was very touching. I hopefully proved to  
17      Probation that I will follow any rule that they give me  
18      under any circumstance because I live for my three  
19      children and wife. My life at this point is not worth  
20      anything but my value to them, the spiritual value has  
21      no price.

22               So your Honor, I am here to be sentenced. I  
23      have to accept your good judgment. I have to accept  
24      it. I would love to refute the facts but certainly you  
25      don't want to hear that and I don't want to do it. I

1       could just tell you that consider a couple of things.  
2       Consider why when people would answer my ad and would  
3       call up and say, Oh, my loved one already died and  
4       we're sorry we didn't call you beforehand, and I would  
5       just authorize payment. Pay them \$2,000. There's a  
6       letter from Mr. McCaughey (Phonetic spelling) that he  
7       got \$2500. I didn't even meet him. I just wanted to  
8       share wealth. About 150 people received money -- maybe  
9       I should say 135, I'm not really sure, and never  
10      participated in anything, your Honor. We never got  
11      their Social Security numbers.

12               And I am responsible, your Honor. I'm  
13      responsible for what I did. I pled and I have to  
14      accept that, but I cannot say that I would ever want to  
15      defraud the poor. There are people who called up after  
16      we ended the program and I authorized money to them  
17      knowing full well we can't use them anyway. It doesn't  
18      matter.

19               Your Honor, I've given away millions and  
20      millions of dollars, both private and public. I've  
21      given to over 70 organizations. Many times I'm the  
22      lead giver. They need my name to recruit other names.  
23      They need me to put the first hundred thousand to help  
24      raise many millions. I've spent most of my time the  
25      last five years fundraising for charities at no pay and

1 at no expectation. My real regret is that I should  
2 have supervised my Co-Defendant and just make sure he  
3 was doing what he was charged to do.

4 And I'm not trying to blame responsibility on  
5 him, but at the end of the day, one thing Mr. Vilker  
6 said in his opening statement at trial was this case,  
7 the heart of this case is what Mr. Radhakrishnan said  
8 to the terminally ill. That is absolutely the heart of  
9 the case. And I just wish that I knew something else  
10 was being said or not said because when it came to my  
11 desk I was assured people understood, agreed and  
12 received money. And it's that simple.

13 So I don't know if I'll ever get the chance to  
14 get to cross-examine what are these people who are  
15 upset that wrote letters thanking me. There are some  
16 who wrote letters that said, Mr. Caramadre, you are a  
17 guardian angel for whatever it is you do with that  
18 financial stuff we signed, we end up with 5 or \$10,000.

19 They had knowledge. They knew there was some  
20 agreement. And it's a little bit disingenuous for  
21 people to say they didn't know there was an agreement.  
22 But I can only tell what I know, your Honor. I know  
23 what was brought to my office it had to be an authentic  
24 signature. I should point out once a set of records  
25 came to my office where the signature was not authentic

1 and I found out two days afterwards and I immediately  
2 closed the account because that would not be right to  
3 use someone's signature that isn't authentic or they  
4 did not permit.

5 Your Honor, I had independent wealth before any  
6 of this. I was very gifted and I thank God. It's a  
7 curse, I guess. I had made substantial money and given  
8 substantial money away long before the 2006 and 2007  
9 where most of the annuities and all of the bond  
10 accounts were bought, long before the bulk was made.

11 This annuity and bond business represented five  
12 percent of my income and I have lost almost a hundred  
13 percent of everything I've ever earned substantially  
14 more times than anything I could have made. The  
15 Government believes I made \$4 million. I don't want to  
16 dispute the numbers right now. There'll be a  
17 restitution hearing, but I've lost everything. And  
18 I've lost it at the hands of the Government making  
19 their investigation, which they're entitled to do. But  
20 for four-and-a-half years I've been in prison, I've  
21 been unable to earn any money. I've been, you know,  
22 ostracized in the community. I've been thrown off of  
23 many, many boards of directors and trustees. I used to  
24 do heroic work for most charities. Now only a couple  
25 of courageous ones will even admit I helped them.



1           So your Honor, in closing, it is a disgrace. It  
2   is terrible if terminally-ill people were used and they  
3   weren't told. And I agree with that. And I could just  
4   tell you that somewhere down the road I can prove to  
5   you or anyone else that my actions don't comport with  
6   trying to take advantage of someone because there were  
7   people who came back after the decedent died and said,  
8   My husband said you'd take care of us. I wrote checks  
9   of \$20,000, sure, whatever you want. One family got  
10   88,000 before they died because they needed money.  
11   This was never about money to me, your Honor. So I  
12   just want to reach out to that point.

13           There's one other thing that's most important,  
14   your Honor. Your Honor, I need to help my family. I  
15   can't help them sitting in Wyatt where I cannot hug  
16   them, cannot talk to them at regular hours. They need  
17   my tutelage right now for the next couple of weeks or  
18   so just so I can prepare them for my further  
19   incarceration. We have been denied religious services  
20   at Wyatt, almost all medical services. They've been  
21   worried to death about me. I would ask that you allow  
22   me to prove myself to you again as you did when you let  
23   me go for the funeral; and certainly, if I make the  
24   least bit of violation, I would be right there back  
25   wherever you order me. But I have no intention of

1       that. My family needs me. My mother died two weeks  
2       ago. My father needs me. I need to settle their  
3       estate, and I need to settle some 18 business  
4       transactions or tax returns that I am the advisor for  
5       when I was incarcerated.

6               So, your Honor, I only ask you to consider that.  
7       I'm a father and husband first. I thank you for your  
8       courtesy and certainly your compassion toward me.

9               THE COURT: All right. Thank you. Let me ask  
10      you one question. I don't want to engage in a long  
11      discussion or debate about matters because I know you  
12      maintain your innocence and I'm not going to rehash all  
13      of the business about your attempt to withdraw your  
14      plea. But one fact that Mr. Vilker mentioned in his  
15      presentation I do want to ask you about, which I think  
16      speaks directly to your state of mind in this entire  
17      proceeding, and that was what you did when the  
18      insurance companies came to you and asked the  
19      questions, what's with these programs.

20              It seems to me that was an opportunity, a gut  
21      check, if you will, where you could have pulled the  
22      plug, but instead you made the choice to continue to  
23      purchase these annuities even though you had been cut  
24      off, but used or purchased them under other people's  
25      names. So what do you say to that?

1           THE DEFENDANT: Your Honor, the facts are not as  
2 they seem. I am saying that no insurance company came  
3 to my office. A broker/dealer did. And a  
4 broker/dealer was only concerned about not getting sued  
5 and us continuing to use terminally-ill lives so they  
6 could make their profit. An insurance company, what is  
7 purported is not factual. I did not -- there was maybe  
8 one or two annuities that I put in someone else's name  
9 when I could buy another one the next day in my name.  
10 There's one company that said they don't want my  
11 business. Okay. They don't have to get it. And if  
12 Raymour decided to buy one there, I let him buy three  
13 annuities. The other two were purchased by companies  
14 that didn't ban us.

15           My point is my actions can be easily explained,  
16 and I pray for the day that I could explain this  
17 because as soon as we separate what was said to the  
18 measuring lives, if there was no misrepresentations  
19 there, there would be no case. There had never been a  
20 case beforehand and the facts that Mr. Vilker wants to  
21 come up and says Kenneth Blowers says his wife didn't  
22 understand, I met with his wife personally. It was  
23 never cross-examined at that trial. I met with them.  
24 I was introduced to them. What Mr. Blowers doesn't  
25 remember 18 years later I can't help. I can only tell

1       you that it's far-reaching for me to pay restitution  
2       for every single annuity that was written when two of  
3       the people wrote you letters saying their mother or  
4       father understood exactly what was going on and yet  
5       they're on the restitution list. So it's misleading.

6               The answer is this. I played by the rules, your  
7       Honor. Hopefully some day a trier of fact will see  
8       that, but I need to say that I didn't have to buffalo  
9       the companies. They set it up for themselves. They  
10      wanted the business. They kept asking me for more  
11      business. No insurance company has sued me other than  
12      the one in question and Nationwide tried to not pay a  
13      claim and this Court itself ruled against them. And  
14      they also ruled that they had every opportunity to ask  
15      any other question. They chose not to. But yet  
16      they're tagging along with the Government's case for  
17      reimbursement on cases you've already ruled on.

18             So my point is there's a lot of misinformation,  
19      and I can only tell you, your Honor, that I will take  
20      any extraordinary means of detection of truth if it  
21      would ever help this Court or anybody else. That's all  
22      I can say. If you want further, I'll continue.

23             THE COURT: No. That's fine. Thank you.

24             Do you have anything you need to respond with?

25             MR. VILKER: Your Honor, we obviously disagree

1 with Mr. Caramadre on a lot of the facts that he just  
2 mentioned. One, for example, your Honor just raised  
3 the question of one company, Midland Insurance Company  
4 called one of the annuitants. She indicated she had no  
5 idea who Mr. Caramadre was. Led them then to terminate  
6 Mr. Caramadre's or Mr. Maggiacomo from submitting an  
7 annuity. A few months later, two-and-a-half million  
8 dollars is submitted to that very same company in  
9 Raymour's name. The suggestion that this wasn't done  
10 as an attempt to manipulate the company, that he wanted  
11 to give Raymour some experience playing with millions  
12 of dollars as a 23-year-old kid in his office is  
13 ludicrous. But the only factual issue I wanted to make  
14 sure the Court understood and, I believe, because  
15 Mr. Murphy wasn't representing Mr. Caramadre at the  
16 time, that the Government never agreed to any kind of  
17 plea agreement where it would be between two and five  
18 years. This was something that was proposed by  
19 Mr. Lepizzera. At the same time we rejected it and I  
20 believe Mr. Caramadre rejected it at the same time. I  
21 just didn't want the Court to be under the impression  
22 that we thought that was ever an appropriate sentence  
23 in this case.

24 THE COURT: Okay. Thank you.

25 MR. MURPHY: Your Honor, excuse me. May I have

1 a moment with Mr. Caramadre?

2 THE COURT: Sure.

3 (Pause.)

4 MR. MURPHY: Your Honor, basically the last two  
5 points Mr. Vilker raised Mr. Caramadre has some  
6 objection to those. If he could briefly have one  
7 minute to explain.

8 THE COURT: Okay. Go ahead, Mr. Caramadre.

9 THE DEFENDANT: Thank you, your Honor.

10 First of all, let's set the record straight.  
11 Mr. Vilker said I moved two-and-a-half million dollars  
12 into another ap with Radhakrishnan. The initial  
13 deposit was 20,000 followed by 780,000 some time later.  
14 It was not two-and-a-half million dollars.

15 Number two, the lady in question, Ms. Ianiero,  
16 you have a letter in front of you from a Joyce Anderson  
17 which attests that her mother was confused, but she did  
18 not authorize the first transaction of two-and-a-half  
19 million. It was closed down and then she authorized a  
20 whole bunch more with me when I went there. I wanted  
21 just to make that clear. Okay?

22 Number two, Mr. Lepizzera to the best of our  
23 collective knowledge testified that the Government  
24 offered two to five, and we're basing it on that. I  
25 don't speak directly to the Government. It went

1 through attorneys.

2 THE COURT: All right. I understand. Thank  
3 you.

4 MR. CARAMADRE: I just want you to know.

5 THE COURT: I got it. Just on that point, the  
6 plea arrangement in this case was a binding plea  
7 agreement with an open range of zero to ten years.  
8 That's what is really important, not what was discussed  
9 previously.

10 I'm going to try to keep my comments as short as  
11 possible. I do want to say just a few things. This is  
12 obviously a very complicated and difficult case for a  
13 lot of reasons. The nature of the fraud is very  
14 unusual and it is in itself very complicated. The  
15 numbers are extremely high. All the enhancements that  
16 play into the case, while they're somewhat informative,  
17 make the guidelines really kind of more of an academic  
18 exercise particularly in light of the plea agreement  
19 that has been reached, but they are informative because  
20 any case that triggers so many enhancements says  
21 something about the nature of the fraud. It's  
22 complicated by the fact that you continue to maintain  
23 your innocence in the face of what I think is very  
24 compelling evidence of your guilt, both presented at  
25 the week of trial that we had as well as the plea

1 hearing.

2           It's complicated, too, because of the nature of  
3 the victimization of the terminally-ill victims. As  
4 has been discussed at some length here this morning,  
5 the victimization of those individuals was not  
6 financial victimization but it really was very real  
7 emotional and psychological victimization. And while  
8 you apologize for -- if I heard you correctly, you seem  
9 to apologize that they were hurt, you don't seem to  
10 recognize that you were the one that hurt them, the one  
11 that put them into this situation. And to the extent  
12 that you blame Mr. Radhakrishnan or the Government for  
13 that, while certainly they have their roles in either  
14 the scheme to defraud or the investigation to uncover  
15 the fraud, you were the one who was the architect of  
16 the scheme and ultimately you're the one that's  
17 responsible for the hurt and distress that's been  
18 imposed upon these individuals.

19           I will grant you the fact that I think there are  
20 some of these folks who were not emotionally or  
21 psychologically impacted by this program. There are  
22 some who I think are probably grateful for the money  
23 that you gave them. So that makes it, as I said, very  
24 unusual because usually the victims would all fall into  
25 one category. They would feel like victims. Here we



1 have a group of people, some of who feel victimized and  
2 others who feel not so much.

3 It's also complicated by the reality of the  
4 person that you seem to be outside of this case, which  
5 is someone who has done an enormous amount of good in  
6 the community, been engaged in philanthropy, helping  
7 and assisting others in need both in public and  
8 organized charitable contributions as well as private,  
9 anonymous quiet help to people.

10 So there's no question that you have a long and  
11 established track record as a good community person  
12 who's done a lot for people.

13 It's also clear that you have a terrific family  
14 and a great love for your family and for your children  
15 and they for you. All of that speaks very much in your  
16 favor.

17 The other thing that makes this case unusual and  
18 I think has to be factored in is, as the Government  
19 described it, the other side of your personality, and  
20 that is as someone who really attempted to not just  
21 concoct this fraud but also to manipulate the Court.  
22 And I'm not going to go back through everything that I  
23 said in denying your motion to withdraw your plea, but  
24 I believed then and I believe now that your effort to  
25 withdraw the plea was an incredibly cynical and

1       disturbing effort to manipulate the Court and the  
2       criminal justice system in order to achieve a severance  
3       from Mr. Radhakrishnan which you couldn't get in a  
4       legitimate way and to maintain your ability to publicly  
5       maintain your innocence to your community and your  
6       family and others. And in order to get there, you  
7       committed perjury. And as I said then, the great  
8       ironies and oddities of this case is that you seem to  
9       commit perjury by claiming you previously committed  
10      perjury when you entered your plea of guilty.

11             In any event, it all amounts to obstruction and  
12      has to be factored into the ultimate sentence here.

13             So finally, I think I need to give some  
14      consideration to the possibility of restitution as well  
15      as, obviously, considering all of the other sentencing  
16      factors. I don't want to impose a term of imprisonment  
17      that destroys the possibility that there may be some  
18      restitution made, and you are unusual as a Defendant in  
19      that I think there really is the possibility that you  
20      could have some time to pay the restitution that is  
21      owed.

22             So when I factor all of these things together,  
23      it strikes me that a term of imprisonment that is  
24      fairly substantial is required but not one that is as  
25      substantial as the Government has requested. I think a

1 substantial term of imprisonment is called for, for a  
2 number of reasons. One is deterrence. Crimes like  
3 this have to be met with a significant enough prison  
4 sentence so that you and others in your position know  
5 that if you engage in this kind of behavior, if you  
6 conduct this kind of fraud, you're going to go to  
7 prison and that's the message that needs to be sent  
8 out. It's necessary to protect the public, and it's  
9 required given the nature of the circumstances of the  
10 offense as we've been talking about all morning, but it  
11 has to be balanced against these other mitigating  
12 factors that I mentioned including your substantial  
13 good works in the community.

14 So my conclusion is that an incarcerative  
15 sentence of 72 months, six years is appropriate in this  
16 case. It would be -- I'll be clear, it would have been  
17 lower but for the obstruction and the manipulation of  
18 the Court's process, closer to that so-called two- to  
19 five-year discussion that was taking place. It  
20 probably would have been somewhere in that four- to  
21 five-year range, but the added factor of the  
22 manipulation and obstruction has to count for some  
23 additional time. So as I said, six years, 72 months is  
24 the incarcerative sentence.

25 Now, Mr. Murphy suggested, and I agree with this

1 suggestion, that a very substantial community service  
2 term is called for in this case to make up for the  
3 prison time that you're not being given. So in that  
4 regard, I'm going to require that you perform 1,000  
5 hours of community service for each year of supervised  
6 release. I'm going to impose a term of three years of  
7 supervised release so a total of 3,000 community  
8 service hours.

9 I'm going to specifically require that those  
10 hours of community service being devoted in the service  
11 of the elderly and particularly the terminally-ill  
12 elderly, to perform works either in hospice or  
13 palliative care through either the hospitals or one of  
14 the various home and hospice or other types of similar  
15 organizations or in doing other service to the elderly,  
16 such as Meals on Wheels, that sort of thing.

17 Obviously, any service to the elderly that you  
18 perform cannot involve anything that would bring you  
19 into contact with confidential information of the sort  
20 that was used in this case. It has to be simply  
21 service.

22 As we previously discussed, I'm going to defer  
23 my final ruling on restitution to a later time.

24 With respect to the Government's request for a  
25 fine, I agree with what the Government is suggesting,

1       that because it's a financial crime it normally would  
2       be called for but the restitution obligation in this  
3       case is so large, or will be so large that I'm going to  
4       forego the fine. There is a special assessment that  
5       needs to be paid.

6               Now, you've made a couple of special requests.  
7       I want to address those very briefly before I formally  
8       impose sentence upon you. I have no problem  
9       recommending that you be incarcerated in a location as  
10      close to Rhode Island as possible, and I will do that.  
11      I'm not going to grant your release over the Christmas  
12      holiday, however. I took a big chance letting you out  
13      for your mother's wake, and I was holding my breath for  
14      the whole time and I'm glad it worked out. Some  
15      special arrangements had to be put in place for that to  
16      work, and we can't be put in a position to make those  
17      kinds of arrangements over the holiday period. It just  
18      wouldn't be fair to the people who were behind the  
19      scenes who had to monitor you constantly whether you  
20      knew it or not during that period of time. So I'm not  
21      going to grant that request.

22              In terms of your medical conditions that were  
23      raised, I think all of those can be adequately  
24      addressed by the Bureau of Prisons in determining the  
25      proper location for you to be incarcerated.

1           And with respect, finally, to your issues that  
2       you raised about your family and so forth, I'm not  
3       insensitive to those concerns. Every sentencing hurts  
4       a family and takes typically a father away from  
5       children and a husband away from their wives. And  
6       that's one of the unfortunate realities of our criminal  
7       justice system in imposing sentence, but those can't  
8       overcome all of the other things that I've been  
9       discussing this morning.

10           So I'm going to ask you now to please rise.

11           In the matter of the United States versus Joseph  
12       Caramadre, the Defendant is hereby sentenced to a term  
13       of incarceration of 72 months in prison to be followed  
14       by three years of supervised release. As special  
15       conditions of his supervised release, in addition to  
16       the standard conditions, first, the Defendant will be  
17       required to participate in a program of mental health  
18       treatment as directed and approved by the Probation  
19       Office and shall contribute to the cost of that  
20       treatment based on his ability to pay. Further, the  
21       Defendant shall perform 1,000 hours of community  
22       service for each year of his supervised release in the  
23       specific areas that I previously described. There will  
24       be no fine. Restitution will be deferred to a later  
25       order, and there is a special assessment of \$200 that

1 must be paid.

2 I do need to advise you of your appeal rights,  
3 but I know that you already know if you wish to appeal  
4 any of the issues related to your plea, your conviction  
5 or your sentence, you need to file that appeal within  
6 14 days of entry of judgment in this case and your  
7 attorneys can assist you in getting that filed.

8 All right. Is there anything further?

9 MR. VILKER: Your Honor, just a couple of  
10 matters. One, the Government agreed in the plea  
11 agreement to dismiss all the remaining counts against  
12 Mr. Caramadre and the forfeiture allegation. So we  
13 hereby move to dismiss Counts I through VIII, X through  
14 XXXII and XXXIV through LXVI, as well as the forfeiture  
15 allegations. And I did wish to point out, I think I  
16 may need to say it on the record that Mr. Caramadre had  
17 waived his appeal rights in the plea agreement.

18 THE COURT: He did waive them?

19 MR. VILKER: That's correct, your Honor.

20 THE COURT: That will be litigated, I'm sure.

21 MR. VILKER: I'm sure.

22 THE COURT: Anything else?

23 MR. VILKER: No, your Honor. Thank you.

24 MR. MURPHY: No, your Honor. Thank you.

25 THE COURT: All right. Thank you very much.

1       We'll be in recess.

2                   (Court concluded at 11:15 a.m.)

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C E R T I F I C A T I O N

I, Anne M. Clayton, RPR, do hereby certify  
that the foregoing pages are a true and accurate  
transcription of my stenographic notes in the  
above-entitled case.

/s/ Anne M. Clayton

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Anne M. Clayton, RPR

February 12, 2014

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Date